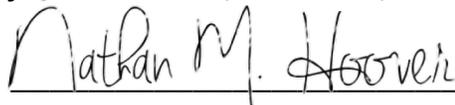


**DWR-P-02 - MOU TDA and TDEC Complaints -12162019**  
**Memorandum of Understanding between TDA and TDEC for Complaints**

**1) EFFECTIVE DATE: 11/01/2020**

**2) SIGNATURES:**

  
 \_\_\_\_\_  
 John McClurkan, TDA-LWSS, Reviewer

  
 \_\_\_\_\_  
 Nathan Hoover, TDA-DF, Reviewer

  
 \_\_\_\_\_  
 Britton Dotson (Nov 10, 2020 12:51 CST)

Britton Dotson, TDEC Fellow, Reviewer

  
 \_\_\_\_\_  
 .. (Nov 10, 2020 09:43 CST)

Patrick Parker, TDEC-Senior Counsel, Reviewer

Revision Number	Date	Brief Summary of Change
0	July 18, 1995	Initial issuance of the policy
1	January 26, 1999	Revision
2	August 22, 2014	Revision
3	November 1, 2020	Revision

**MEMORANDUM OF UNDERSTANDING**  
***Between Tennessee Department of Agriculture and Tennessee Department of***  
***Environment and Conservation***

Original: July 18, 1995  
Revised: January 26, 1999  
Revised: August 22, 2014

2020 REVISION

This Memorandum of Understanding (“MOU”) is made and entered into upon the latter date of execution signed below between **Tennessee Department of Agriculture (TDA)** and **Tennessee Department of Environment and Conservation (TDEC)**, collectively the “Parties.”

WHEREAS, TDEC is the state agency responsible for abatement of ground and surface water quality impairments, reclamation of impaired waters, and prevention of future impairments of state waters;

WHEREAS, TDEC is empowered to exercise general supervision and control over the quality of all state waters and to administer and to enforce all laws and regulations relating to impairments of such waters, consistent with the purposes of the Water Quality Control Act of 1977, Tenn. Code Ann. § 69-3-101 to -148;

WHEREAS, certain agricultural or silvicultural operations may generate point source discharges when an operator fails to attend to best management practices;

WHEREAS, operators who generate point source discharges are periodically engaged with TDA through either pesticide regulation or receipt of technical or financial assistance for implementation of best management practices through the Division of Forestry or Land and Water Stewardship Section;

WHEREAS, under Tenn. Code Ann. § 69-3-120(g) the Water Quality Control Act of 1977 shall not apply to any agricultural or forestry activity unless the activity is associated with a point source discharge from a discernible, confined, and discrete water conveyance;

WHEREAS, TDEC is the sole state agency authorized to conduct investigations under the Water Quality Control Act of 1977, provided that other state agencies may assist in duties arising under the Act and TDA shall be notified of any investigations under the Act associated with agricultural or silvicultural activities; and

THEREFORE, premises considered, TDA and TDEC hereby formally offer their mutual support and understanding to each other for effective and efficient response to water quality impairment concerns in agricultural and silvicultural activities as follows:

1. Methods of Cooperation.
  - a. TDEC. TDEC will notify TDA of any matter in which water quality impacts may be associated with agricultural or silvicultural activities.

- i. Agricultural means relating to the production of food or fiber, and silvicultural means relating to the cultivation of trees.
  - ii. TDEC will in good faith attempt to notify TDA of water quality matters associated with agricultural or silvicultural activities prior to conducting investigations of those matters.
  - iii. In cases where TDA is notified prior to investigation, TDEC will afford in good faith deference and opportunity for TDA to make recommendations and implement resolution efforts for the matter. TDEC may in its sole discretion await TDA recommendations and resolution efforts prior to instituting enforcement actions within TDEC's jurisdiction.
  - iv. Following completion of TDA's resolution efforts, TDEC will assume responsibility for any further regulatory oversight or enforcement actions related to the matter.
  - v. TDEC will periodically provide guidelines to TDA identifying those circumstances and events generally associated with agricultural and silvicultural activities that may constitute point source discharges.
- b. TDA. For any matter reported by TDEC, TDA will conduct educational outreach and regulatory response within its jurisdiction.
- i. As workflow and resources permit, and ideally within 15 business days of receiving notification, TDA will evaluate the site and operator activity; institute appropriate resolution and enforcement actions consistent with TDA practice; and provide TDEC with an initial report, recommendations, and anticipated follow-up necessary to verify compliance with the operator.
  - ii. TDA's evaluation of the site shall consider the extent and characteristics of water quality impacts, including impact sources such as skid trails, road construction, gullies, livestock waste handling, pesticide issues, etc. TDA shall also consider the extent to which the operator has implemented best management practices related to the alleged impact. TDA may request on-site consultation with TDEC in order to accurately assess water quality impacts, including a determination of actual or potential nonpoint and point source discharges, if any.
  - iii. In TDA's sole discretion, TDA efforts to resolve the matter may include educational outreach, warnings, civil penalties, withdrawal of grant or program funding, revocation of licenses issued by TDA, pursuit of injunctive relief, and institution of criminal charges.
  - iv. Upon completion of resolution efforts, TDA will notify TDEC of all resolution efforts and related documents issued to the operator and

will advise of recommendations whether TDA considers the matter resolved or outstanding.

- v. For any matter not resolved within 180 days following notification and any matter TDA deems to be an egregious or chronic violation of best management practices or regulations within TDA's jurisdiction, TDA may end resolution efforts for the matter and recommend TDEC enforcement, if any.
  - vi. TDA will make good faith efforts to resolve water quality concerns in agricultural and silvicultural settings only. TDA will not endeavor to represent or to act in lieu of TDEC with regard to water quality concerns.
  - c. For notification purposes, the Parties will contact each other using Attachments A and B to this MOU. The Parties agree to submit reports and information in mutually acceptable electronic formats, if possible.
  - d. TDEC and TDA will attempt in good faith, as workflow permits and in each party's individual and sole discretion, to provide annual instruction to their respective personnel as appropriate for engagement under this MOU.
2. Compensation. The Parties agree that no compensation will be paid or will be required for any services or assets made available to them under this MOU.
  3. Liability. The Parties agree to assume individually the total and sole responsibility for any action or omission of their individual employees and agents arising out of this MOU.
  4. Periodic Review. The Parties agree to evaluate periodically and as often as necessary the desirability of continuing this MOU and to revise its terms as the Parties deem appropriate. Amendment or addendum of this MOU may be had only upon the written agreement of both Parties; however, the Parties agree that contact information provided in Attachments A and B may be updated upon notice to the other party without need of executing an amendment to this MOU.
  5. Term. The Parties agree that this MOU shall operate continually and that its termination may be had with or without cause by either party upon submission of a 30-day written notice of termination.
  6. Departmental Discretion. The Parties agree that nothing within this MOU may be construed to limit either party's discretion or authority to investigate and administer responses to violations within its jurisdiction.
  7. Effect. The Parties agree that this MOU supersedes all existing memoranda of understanding between them, including any supplements or amendments thereto, with respect to coordinated response efforts for water quality concerns in the state. The Parties further agree that nothing in this MOU is intended to represent nor shall it operate as a binding contract between the parties, and rather this MOU is simply a formal statement of the Parties' intended good will and support for one another.

TENNESSEE DEPARTMENT OF AGRICULTURE

Charlie Hatcher

Digitally signed by Charlie Hatcher  
DN: cn=Charlie Hatcher, o=Tennessee  
Department of Agriculture, ou=Commissioner,  
email=charles.hatcher@tn.gov, c=US  
Date: 2020.11.06 16:58:45 -06'00'

By: CHARLIE HATCHER, D.V.M.  
Its: Commissioner

\_\_\_\_\_  
Date

TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION

\_\_\_\_\_  
By: DAVID SALYERS, P.E.  
Its: Commissioner

\_\_\_\_\_  
Date

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

**Attachment A**

**TDA Divisional Contacts**

Silvicultural Concerns

**DIVISION OF FORESTRY**

Jessica Yahnke

931-372-0935

[jessica.yahnke@tn.gov](mailto:jessica.yahnke@tn.gov)

District	Counties Served
East Tennessee <b>Darren Bailey</b> Phone: 865-594-6432 Email: Darren.Bailey@tn.gov	Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Loudon, Monroe, Morgan, Roane, Scott, Sevier, Sullivan, Unicoi, Union, Washington
Cumberland <b>Andy McBride</b> Phone: 931-526-9502 Email: Andy.McBride@tn.gov	Bledsoe, Bradley, Cannon, Clay, Coffee, Cumberland, DeKalb, Fentress, Franklin, Grundy, Hamilton, Jackson, Macon, Marion, McMinn, Meigs, Overton, Pickett, Polk, Putnam, Rhea, Sequatchie, Smith, Trousdale, Van Buren, Warren, White
Highland Rim <b>Jeff Piatt</b> Phone: 615-797-3117 Email: Jeffrey.Piatt@tn.gov	Bedford, Cheatham, Davidson, Dickson, Giles, Hardin, Hickman, Houston, Humphreys, Lawrence, Lewis, Lincoln, Marshall, Maury, Montgomery, Moore, Perry, Robertson, Rutherford, Stewart, Sumner, Wayne, Williamson, Wilson
West Tennessee <b>Richard Sanderson</b> Phone: 731-967-6606 Email: Richard.Sanderson@tn.gov	Benton, Carroll, Chester, Crockett, Decatur, Dyer, Fayette, Gibson, Hardeman, Haywood, Henderson, Henry, Lake, Lauderdale, Madison, McNairy, Obion, Shelby, Tipton, Weakley

Agricultural Concerns (non-pesticide)

**DIVISION OF ADMINISTRATION AND GRANTS  
LAND AND WATER STEWARDSHIP SECTION**

Sam Marshall, Ph.D.

615-837-5306

[sam.marshall@tn.gov](mailto:sam.marshall@tn.gov)

Area	Counties Served
Western Tennessee Area 1 <b>Doug Taylor</b> Phone: 731-225-6533 Email: <a href="mailto:Doug.M.Taylor@tn.gov">Doug.M.Taylor@tn.gov</a>	Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, Madison, Obion, Shelby, Tipton, Weakley
Western TN River Valley Area 2 <b>Russell Barnes</b> Phone: 731-441-7364 Email: Russell. <a href="mailto:Barnes@tn.gov">Barnes@tn.gov</a>	Benton, Carroll, Chester, Decatur, Hardin, Henderson, Henry, Hickman, Lawrence, Lewis, McNairy, Perry, Wayne
Northern Middle Tennessee Area 3 <b>Wayne Pressler</b> Phone: 615-210-1857 Email: <a href="mailto:Wayne.Pressler@tn.gov">Wayne.Pressler@tn.gov</a>	Cheatham, Davidson, Dickson, Houston, Humphreys, Montgomery, Robertson, Rutherford, Stewart, Sumner, Williamson, Wilson
Southern Middle Tennessee Area 4 <b>Clark Hollis</b> Phone: 931-239-8657 Email: <a href="mailto:Clark.Hollis@tn.gov">Clark.Hollis@tn.gov</a>	Bedford, Cannon, Coffee, Franklin, Giles, Lincoln, Marshall, Maury, Moore, Van Buren, Warren
Upper Cumberland Area 5 <b>Mark Hudson</b> Phone: 615-888-7744 Email: <a href="mailto:Mark.S.Hudson@tn.gov">Mark.S.Hudson@tn.gov</a>	Clay, Cumberland, DeKalb, Fentress, Jackson, Macon, Overton, Pickett, Putnam, Scott, Smith, Trousdale, White
Southeast Tennessee Area 6 <b>Tammy Whalen</b> Phone: 423-240-1123 Email: <a href="mailto:Tammy.Whalen@tn.gov">Tammy.Whalen@tn.gov</a>	Bledsoe, Bradley, Grundy, Hamilton, Marion, Meigs, McMinn, Polk, Rhea, Sequatchie
East Tennessee Area 7 <b>Sam Lemmons</b> Phone: 865-207-2913 Email: <a href="mailto:Sam.Lemmons@tn.gov">Sam.Lemmons@tn.gov</a>	Anderson, Blount, Campbell, Claiborne, Grainger, Jefferson, Knox, Loudon, Monroe, Morgan, Roane, Sevier, Union
Upper East Tennessee Area 8 <b>Steve Henegar</b> Phone: 423-341-0071 Email: <a href="mailto:Steve.Henegar@tn.gov">Steve.Henegar@tn.gov</a>	Carter, Cocke, Greene, Hamblen, Hancock, Hawkins, Johnson, Sullivan, Unicoi, Washington

Agricultural Concerns (pesticide)

**DIVISION OF CONSUMER & INDUSTRY SERVICES  
PESTICIDES SECTION**

Kathy Booker

615-837-5133

[kathy.booker@tn.gov](mailto:kathy.booker@tn.gov)

**Attachment B**

**TDEC – DIVISION OF WATER RESOURCES CONTACTS**

Environmental Field Office (EFO) Name	EFO Contact and Address	List of Counties
Chattanooga	<b>Jennifer Innes</b> State Office Building, Suite 550 540 McCallie Ave Chattanooga, TN 37402 (423) 634-5745	Bledsoe, Bradley, Grundy, Hamilton, McMinn, Marion, Meigs, Polk, Rhea, Sequatchie
Columbia	<b>Sherry Glass</b> 1421 Hampshire Pike Columbia, TN 38401 (931) 380-3371	Bedford, Coffee, Franklin, Giles, Hickman, Lawrence, Lewis, Lincoln, Marshall, Maury, Moore, Perry, Wayne
Cookeville	<b>Brad Ulmer</b> 1221 South Willow Ave Cookeville, TN 38506 (931) 432-4015	Cannon, Clay, DeKalb, Fentress, Grundy, Jackson, Macon, Overton, Pickett, Putnam, Smith, Trousdale, Van Buren, Warren, White
Jackson	<b>Conner Franklin</b> 1625 Hollywood Dr Jackson, TN 38305 (731) 512-1300	Benton, Carroll, Chester, Crockett, Decatur, Dyer, Gibson, Hardeman, Hardin, Haywood, Henderson, Henry, Lake, Lauderdale, McNairy, Madison, Obion, Weakly
Johnson City	<b>Dane Cutshaw</b> 2305 Silverdale Rd Johnson City, TN 37601 (423) 854-5400	Carter, Greene, Hancock, Hawkins, Johnson, Sullivan, Unicoi, Washington
Knoxville	<b>Michael Atchley</b> 3711 Middlebrook Pike Knoxville, TN 37921 (865) 594-6035	Anderson, Blount, Campbell, Claiborne, Cocke, Cumberland, Grainger, Hamblen, Jefferson, Knox, Loudon, Monroe, Morgan, Roane, Scott, Sevier, Union
Memphis	<b>Joellyn Brazile</b> 8383 Wolf Lake Drive Bartlett, TN 38133-4119 (901) 371-3000	Fayette, Shelby, Tipton
Nashville	<b>Tim Jennette</b> 711 R.S. Gass Boulevard Nashville, TN 37216 (615) 687-7000	Cheatham, Davidson, Dickson, Houston, Humphreys, Montgomery, Robertson, Rutherford, Stewart, Sumner, Williamson, Wilson